

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

BENJAMIN HOUSTON,

06-CV-1123-ST

Plaintiff,

ORDER

v.

COUNTY OF WASHINGTON; MARK  
T. FOWLER, individually;  
MICHELLE E. HOUSTON; ADAM SPANG,  
individually; ROBERT B. WOLFE,  
individually; JUAN ELENES,  
individually; DAVIDSON GREAVES,  
individually,

Defendants.

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Nashville, TN 37218

Plaintiff, *Pro Se*

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Defendant, *Pro Se*

**BROWN, Judge.**

Magistrate Judge Janice M. Stewart issued Findings and  
Recommendation (#84) on November 26, 2007, in which she  
recommended this Court grant the Motion for Summary Judgment of  
Defendant Michele E. Houston (#66); grant the Motion for Summary

Judgment of Robert B. Wolfe, Adam Spang, and Mark T. Fowler (#60);<sup>1</sup> deny the Motion for Summary Judgment of Defendants Juan Elenes and Davidson Greaves (#55); deny the Motion for Summary Judgment of Washington County (#54); and dismiss Plaintiff's First, Second, and Third Claims. Plaintiff and Defendants Washington County, Elenes, and Greaves filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988).

In his Objections, Plaintiff generally reiterates the arguments contained in his Response. Plaintiff, however, also seeks to submit additional evidence with his Objection to support his arguments. On May 10, 2007, the Court entered a Summary Judgment Advice Order in which it informed Plaintiff

[w]hen a party you are suing makes a motion for summary judgment that is properly supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says.

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<sup>1</sup> Defendant Fowler joined (#83) in the Motion for Summary Judgment of Defendants Wolfe and Spang.

Instead, you must set out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts shown in the defendant's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial.

Plaintiff's efforts to submit additional evidence at this stage are untimely. Moreover, even if the Court considered the additional evidence, the Court concludes it does not provide any basis to modify the Findings and Recommendations. For example, Plaintiff's supplemental materials include emails from an individual who is not a defendant in this action to other individuals who are not defendants in this action. Plaintiff does not produce evidence to establish any Defendant in this action had any knowledge of or contact with the individuals involved in the emails. The remainder of Plaintiff's additional evidence does not belie or refute the evidence reviewed and relied on by the Magistrate Judge in her Findings and Recommendation.

The Objections of Defendants Washington County, Elenes, and Greaves generally reiterate the arguments contained in their Motions and Replies. The Court has carefully considered Defendants' Objections and concludes they do not provide a basis to modify the Findings and Recommendation.

This Court also has reviewed *de novo* the portions of the record pertinent to Plaintiff's and Defendants' Objections and does not find any error in the Magistrate Judge's Findings and Recommendation.

**CONCLUSION**

The Court **ADOPTS** Magistrate Judge Stewart's Findings and Recommendation (#84) and, accordingly, **GRANTS** the Motion for Summary Judgment of Defendant Michele E. Houston (#66); **GRANTS** the Motion for Summary Judgment of Robert B. Wolfe, Adam Spang, and Mark T. Fowler (#60); **DENIES** the Motion for Summary Judgment of Defendants Juan Elenes and Davidson Greaves (#55); **DENIES** the Motion for Summary Judgment of Washington County (#54); and **DISMISSES** Plaintiff's First, Second, and Third Claims.

IT IS SO ORDERED.

DATED this 19<sup>th</sup> day of February, 2008.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge